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## **Appendix A - MMP Complaint and signed waiver**

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION**

**COMPLAINT NO. R2-2003-0084**

**MANDATORY MINIMUM PENALTY  
IN THE MATTER OF  
GTE OPERATIONS SUPPORT INCORPORATED  
100 FERGUSON DRIVE, MOUNTAIN VIEW, SANTA CLARA COUNTY**

This complaint assessing Mandatory Minimum Penalty (MMP) pursuant to Water Code section 13385 (h) is issued to GTE Operations Support Incorporated (hereafter Discharger) based on a finding of four violations of Order No. 99-051, NPDES No. CAG912003, general waste discharge requirements for discharge or reuse of extracted and treated groundwater resulting from the cleanup of groundwater polluted by volatile organic compounds (VOC General NPDES Permit).

The Executive Officer finds the following:

1. On July 21, 1999, the Regional Water Quality Control Board, (Regional Board) adopted the VOC General NPDES Permit. The Discharger applied for and received a letter dated November 1, 1999, authorizing the discharge of treated groundwater under this General Permit.
2. The VOC General NPDES Permit prohibits the discharge of effluent containing Trichloroethene (TCE) concentrations exceeding 5.0 micrograms per liter (ug/l) and the discharge of any untreated extracted groundwater.
3. According to the Discharger's self-monitoring report dated January 28, 2002, effluent samples collected from the treatment facility on the dates listed in the table below contained TCE at concentrations that exceeded the corresponding 5.0 ug/l limit by more than 20 percent (violations 1 and 2). In addition, according to the June 6, 2003, report submitted by the Discharger, 29,489 gallons of untreated extracted groundwater was discharged from May 28 to May 29 of 2003 in violation of the permit. Approximately 13,419 gallons of the total 29,489 gallons of untreated extracted groundwater entered the storm drain. The penalty assessments for these violations are listed as four days of violations in the table below.

| Violation No.                        | Date     | Regulated Compound | Test Result (ug/L) | NPDES Limit (ug/L) | Limit Exceedance | MMP       |
|--------------------------------------|----------|--------------------|--------------------|--------------------|------------------|-----------|
| 1                                    | 12/28/01 | TCE                | 7.3                | 5                  | 46%              | \$ 3,000  |
| 2                                    | 1/9/02   | TCE                | 10.0               | 5                  | 100%             | \$ 3,000  |
| 3*                                   | 5/28/03  | TCE                | 7.0 - 100.0        | 5                  | 40% - 1900%      | \$ 3,000  |
| 4*                                   | 5/29/03  | TCE                | 7.0 - 100.0        | 5                  | 40% - 1900%      | \$ 3,000  |
| Definitions: TCE = Trichloroethylene |          |                    |                    |                    | Total:           | \$ 12,000 |


\* Based on the data obtained by analyzing influent sample collected on May 27, 2003, and a sample of standing water that was discharged and captured on the ground pad, collected on June 2, 2003, the Discharger released, on May 28, 2003, and May 29, 2003, approximately 13,419 gallons of untreated or partially treated extracted groundwater containing TCE at a concentration in the range of 7.0 ug/l to 100.0 ug/l, which exceeded the limit of 5.0 ug/l by more than 20 percent (the actual percentage falls somewhere in the range of 40 to 1,900).

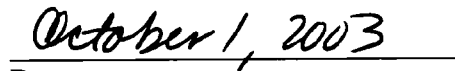
4. Water Code Section 13385(h)(1) requires the Regional Board to assess an MMP of \$3,000 for serious NPDES violations. A serious violation includes discharge of effluent containing any Group II pollutant in a concentration that exceeds the established maximum limits by 20 percent or more. TCE is considered a Group II pollutant. Test results for violations 1, 2, 3, and 4 indicate serious violations.
5. The Discharger committed four serious violations during the December 28, 2001, through May 29, 2003, period. The total amount of the MMP for these serious violations is \$12,000. Section 13385 allows the Discharger to spend up to the \$12,000 of this MMP on a Supplemental Environmental Project (SEP).
6. In addition to the \$12,000 penalty assessed in this Complaint, the Discharger had previously been assessed a \$3,000 penalty for another violation of discharging an estimated 25,000 gallons of untreated water on March 29-30, 2001, as documented in MMP Complaint No. 01-133 that was on the Regional Board's January 23, 2002, agenda. For that violation, the Discharger paid \$3,000 for an environmental education program run by Silicon Valley Toxics Coalition (SVTC), a south bay citizen group. Specifically, the SVTC had proposed to pay \$3,000 for some lab costs associated with stream monitoring by local high school students as part of the Coalition's "Clean Streams / Clean Bay Community Watershed Monitoring Project."
7. Issuance of this Complaint is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.), in accordance with Section 15321(a)(2), Title 14, California Code of Regulations.

**GTE OPERATIONS SUPPORT INCORPORATED IS HEREBY GIVEN NOTICE THAT:**

1. The Executive Officer of the Regional Board proposes that the Discharger be assessed an MMP in the amount of \$12,000 that will be suspended if the Discharger funds an acceptable SEP Project in the amount of \$12,000.
2. The Regional Board will hold a hearing on this Complaint on December 3, 2003, unless the Discharger waives the right to a hearing by signing the last page of this Complaint and checking the appropriate box. By doing so, the Discharger must either pay the full penalty of \$12,000 or submit an acceptable SEP proposal in an amount of \$12,000 by November 3, 2003. Any SEP proposal shall conform to the requirements specified in Section IX of the Water Quality Enforcement Policy, which was adopted by the State Water Resources Control Board on February 19, 2002. If the proposed SEP is not acceptable to the Executive Officer, the Discharger has 30 days from receipt of notice of an unacceptable SEP to either submit a new or revised proposal, or make a payment for the suspended amount. All payment, including any money not expended for the SEP, must be payable to the State Water Pollution Cleanup and Abatement Account. Regular reports on the SEP implementation shall be provided to the Executive Officer according to a schedule to be determined. The completion report for the SEP shall be submitted to the Executive Officer within 60 days of project completion.

3. The signed waiver becomes effective the next day after the public comment period for this Complaint is closed, provided that there are no significant public comments on this Complaint during the public comment period. If there are significant public comments, the Executive Officer may withdraw the Complaint and reissue it as appropriate.
4. If a hearing is held, the Regional Board will consider whether to affirm, reject, or modify the proposed penalty, or whether to refer the matter to the Attorney General for recovery of the civil liability.

  
Loretta K. Barsamian  
Executive Officer

  
Date

**WAIVER OF HEARING FORM**

(The signed waiver becomes effective the next day after the public comment period for this Complaint is closed, provided that there are no significant public comments on this Complaint during the public comment period. If there are significant public comments, the Executive Officer may withdraw the Complaint and reissue it as appropriate.)

☐ Waiver of the right to a hearing and agree to make payment in full.

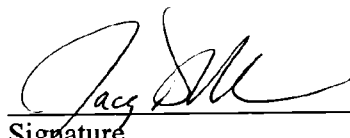
By checking the box I agree to waive my right to a hearing before the Regional Board with regard to the violations alleged in Complaint No. R2-2003-0084 and to remit the full penalty payment to the State Water Pollution Cleanup and Abatement Account, c/o State Water Resources Control Board at 1515 Clay Street, Oakland, CA 94612, by November 3, 2003. I understand that I am giving up my right to be heard, and to argue against the allegations made by the Executive Officer in this Complaint, and against the imposition of, or the amount of, the civil liability proposed.

☒ Waiver of the right to a hearing and agree to undertake a SEP.

By checking the box I agree to waive my right to a hearing before the Regional Board with regard to the violations alleged in Complaint No R2-2003-0084 and to complete a supplemental environmental project (SEP) in lieu of the suspended penalty in an amount of \$12,000. I also agree to submit the SEP proposal by November 3, 2003. I understand that the SEP proposal shall conform to the requirements specified in Section IX of the Water Quality Enforcement Policy, which was adopted by the State Water Resources Control Board on February 19, 2002, and be subject to approval by the Executive Officer. If the SEP proposal, or its revised version, is not acceptable to the Executive Officer, I agree to pay the suspended penalty within thirty days of a letter from the Executive Officer denying the approval of the proposed SEP. I also understand that I am giving up my right to argue against the allegations made by the Executive Officer in the Complaint, and against the imposition of, or the amount of, the mandatory minimum penalty (MMP) proposed. I further agree to complete the approved SEP within a time schedule set by the Executive Officer.

Jacque' McCormick  
\_\_\_\_\_  
Name (print)

October 7, 2003  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Signature

Director-Environment Management  
\_\_\_\_\_  
Title/Organization